



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Thirteenth day of September Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice V.PARTHIBAN

CRL MP(MD) No.7288 & 7289 of 2019

IN

CRL RC(MD) No.580 of 2019

PANDARAM @ MURUGAN

... PETITIONER/PETITIONER

Vs

THE SUB INSPECTOR OF POLICE,
KADAYAM POLICE STATION,
TIRUNELVLEI DISTRICT
CR.NO.55 OF 2013

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to pass an order of suspending th execution of sentence passed by the IV Additional Sessions Judge, Tirunelveli in CA No.122 of 2018 dated 19.07.2019 modified the judgmetn in S.C.No.698 of 2016 on the file of the learned Assistant Sessions Judge, Ambasamuthiram dated 20.09.2018.

Prayer in CRL MP(MD). 7289 of 2019 :

To pass an order of exempting me from surrendering before the learned Additional Mahila Court, Tirunelveli in CA No.122 of 2018 dated 19.07.2019 modified the judgment in SC No.698 of 2016 on the file of the learned Assistant Sessions Judge, Ambasamuthiram dated 20.09.2018.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.S.VELRAJAN, Advocate for the petitioner and of MR.M.ANANTHA DEVI, on behalf of the Respondent the court made the following

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order:-

The petitioner, along with another accused, who were arrayed as A-1 and A-2, were charged and the Judicial Magistrate, Ambasamuthiram took cognizance of the case and the learned Assistant Sessions Judge, Ambasamuthiram has framed charge against the petitioner for the alleged offence under Section 307 I.P.C. After trial, learned Assistant Sessions Judge, Ambasamuthiram has acquitted the petitioner from the charge under Section 307 I.P.C and convicted him for the offence under Section 326 I.P.C and sentenced him to undergo rigorous imprisonment for three years with a fine of Rs.1,000/-, in default to undergo 3 months simple imprisonment. Aggrieved by the said order, the petitioner filed an appeal before the learned IV Additional Sessions Judge, Tirunelveli in C.A.No.122 of 2018. After hearing the submissions, the IV Additional Sessions Judge, Tirunelveli has reduced the sentence of imprisonment to one year, leaving the sentence of fine unaltered. Aggrieved by the said finding, the present revision has been preferred.

2. Learned counsel appearing for the petitioner submits that there are infirmities and inconsistencies in the testimony of the prosecution witnesses and the petitioner has a bright chance of succeeding in the revision and, hence, prays for suspension of sentence of imprisonment.

3. Per contra, Ms.M.Anantha Devi, learned Government Advocate (Crl. Side), appearing for the respondent submitted that the prosecution, through cogent and convincing testimony, has proved the offence committed by the accused and the courts below, on proper appreciation of the oral and documentary evidence has convicted and sentenced the accused and, therefore, this petition for suspension of sentence is liable to be dismissed.

4. This Court gave its careful consideration to the submissions on either side and also perused the materials available on record.

5. On a consideration of the submissions of either side and taking into consideration the fact that the appeal is not likely to be taken up for hearing in the near future, this Court is of the considered view that this is a fit case for grant of suspension of sentence of imprisonment. Accordingly, this Court is inclined to suspend the substantive sentence of imprisonment imposed on the petitioner/accused.

6. Accordingly, the miscellaneous petition is allowed and the substantive sentence of imprisonment alone stands suspended pending disposal of the revision and the petitioner is directed to be enlarged on bail on condition that the petitioner executes a bond for a sum of Rs.10,000/- with two sureties, each for a likesum, to the satisfaction of the Judicial Magistrate, Ambasamuthiram, and on



further condition that the petitioner shall appear before the said Court at 10.30 a.m. on the 1st working day of every English calendar month until further orders. Consequent upon the above order of suspension, the petitioner is also exempted from surrendering before the concerned Court, until further orders.

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sd/-
13/09/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE SUB INSPECTOR OF POLICE
KADAYAM POLICE STATION, TIRUNELVELI

2 THE IV ADDITIONAL SESSIONS
JUDGE, TIRUNELVELI.

3 THE ASSISTANT SESSIONS
JUDGE, AMBASAMUTHIRAM.

4 THE ADDITIONAL MAHIL COURT
TIRUNELVELI.

5 THE JUDICIAL MAGISTRATE,
AMBASAMUTHIRAM

6 THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

7 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL MP(MD) No.7288 & 7289 of 2019
IN CRL RC(MD) No.580 of 2019
Date :13/09/2019

TR/PN/SAR-II (19.09.2019) 3P 8C